

House File 2170 - Introduced

HOUSE FILE 2170

BY WILLS

A BILL FOR

1 An Act concerning civil liability of certain educational
2 entities and their employees and providing penalties and
3 sanctions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 259B.1 Definitions.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "*Educational entity*" means the state board of education
5 or the board of directors of a school district.

6 2. "*Employee*" means an individual who is a member of an
7 educational entity, who is employed by an educational entity,
8 who provides student-related services for an educational entity
9 on a contractual basis, or who is an authorized volunteer who
10 provides student-related services for an educational entity.

11 Sec. 2. NEW SECTION. 259B.2 School employees — limitation
12 of liability.

13 1. An educational entity or its employees shall be immune
14 from civil liability for taking any action regarding the
15 supervision, grading, suspension, expulsion, or discipline of a
16 student while the student is on the property of the educational
17 entity or is under the supervision of the educational entity
18 or its employees. However, such immunity shall not apply if
19 such action violated an express statute, rule, regulation, or
20 clearly articulated policy of the federal government, state,
21 or educational entity. The plaintiff shall have the burden of
22 proving such a violation by clear and convincing evidence.

23 2. An educational entity and its employees shall be immune
24 from civil liability for making a report consistent with
25 federal law to appropriate law enforcement authorities or to
26 officials of an educational entity if the individual making
27 the report has reasonable grounds to suspect that any of the
28 following apply:

29 a. The student is under the influence of alcohol or a
30 controlled substance not lawfully prescribed to the student.

31 b. The student is in possession of a firearm, alcohol, or a
32 controlled substance not lawfully prescribed to the student.

33 c. The student is involved in the illegal solicitation,
34 sale, or distribution of a firearm, alcohol, or a controlled
35 substance not lawfully prescribed to the student.

1 Sec. 3. NEW SECTION. **259B.3 Limitation of punitive damages.**

2 An employee shall not be liable for punitive damages for acts
3 or omissions within the course and scope of employment. For
4 purposes of this section, an employee who acts with specific
5 intent to cause harm shall not be considered as acting within
6 the course and scope of employment.

7 Sec. 4. NEW SECTION. **259B.4 False reports — penalty.**

8 1. A person eighteen years of age or older who knowingly
9 makes a false accusation of criminal activity against
10 an employee of an educational entity to law enforcement
11 authorities or school district officials or personnel commits
12 a misdemeanor punishable only by a fine of up to two thousand
13 dollars.

14 2. A public school student between the ages of seven and
15 seventeen who knowingly makes a false accusation of criminal
16 activity against an employee of an educational entity to
17 law enforcement authorities or school district officials or
18 personnel may, at the discretion of the board of directors
19 of the school district, and in accordance with the federal
20 Individuals with Disabilities Education Act, 20 U.S.C. §1400 et
21 seq., be subject to any of the following:

22 *a.* Expulsion.

23 *b.* Suspension for a period of time to be determined by the
24 board.

25 *c.* Community service of a type and for a period of time to
26 be determined by the board.

27 *d.* Any other sanction as the board in its discretion may
28 deem appropriate.

29 3. The provisions of this section do not apply to
30 accusations against members of the board of directors of a
31 school district.

32 4. This section is in addition to and does not limit any
33 other civil or criminal liability imposed by law on persons who
34 make false statements alleging criminal activity by others.

35 Sec. 5. NEW SECTION. **259B.5 Court costs and attorney fees**

1 — limitation of contingency fees.

2 1. In any civil action or proceeding against an educational
3 entity or its employee for acts or omissions within the course
4 and scope of employment in which the educational entity or
5 its employee prevails, the court shall award court costs and
6 reasonable attorney fees to the prevailing parties.

7 2. In any civil action or proceeding against an educational
8 entity or its employee for acts or omissions within the
9 course and scope of employment, a plaintiff's attorney shall
10 not enter into a contingency fee contract that provides
11 for the attorney to receive an aggregate contingency fee in
12 excess of thirty-five percent of any recovery, exclusive of
13 reasonable costs and expenses, and shall not charge or accept a
14 contingency fee in excess of that amount.

15 3. For purposes of this section, an employee who acts with
16 specific intent to cause harm shall not be considered as acting
17 within the course and scope of employment.

18 Sec. 6. NEW SECTION. 259B.6 Insurance does not constitute
19 waiver.

20 Unless otherwise provided by law, the existence of any
21 insurance policy indemnifying an educational entity against
22 liability for damages does not constitute a waiver of any
23 defense otherwise available to the educational entity or its
24 employees in the defense of the claim for damages.

25 Sec. 7. NEW SECTION. 259B.7 Construction.

26 This chapter shall not be construed to infringe on any
27 right provided under the federal Individuals with Disabilities
28 Education Act, 20 U.S.C. §1400 et seq. This chapter shall not
29 be construed to conflict with chapter 669 or 670.

30 EXPLANATION

31 The inclusion of this explanation does not constitute agreement with
32 the explanation's substance by the members of the general assembly.

33 This bill provides immunity from civil liability to an
34 educational entity or its employees for taking any action
35 regarding the supervision, grading, suspension, expulsion, or

1 discipline of a student while the student is on the property
2 of the educational entity or is under the supervision of the
3 educational entity or its employees. However, such immunity
4 shall not apply if such action violated an express statute,
5 rule, regulation, or clearly articulated policy of the federal
6 government, state, or educational entity. The plaintiff shall
7 have the burden of proving such a violation by clear and
8 convincing evidence.

9 The bill also provides immunity from civil liability to
10 an educational entity or its employees for making a report
11 consistent with federal law to appropriate law enforcement
12 authorities or to officials of an educational entity if the
13 individual making the report has reasonable grounds to suspect
14 that a student is engaging in certain activities listed in the
15 bill.

16 The bill defines "educational entity" as the state board of
17 education or the board of directors of a school district. The
18 bill defines "employee" as an individual who is a member of an
19 educational entity, who is employed by an educational entity,
20 who provides student-related services for an educational entity
21 on a contractual basis, or who is an authorized volunteer who
22 provides student-related services for an educational entity.

23 The bill provides that an employee shall not be liable for
24 punitive damages for acts or omissions within the course and
25 scope of employment.

26 The bill provides that a person 18 years of age or older
27 who knowingly makes a false accusation of criminal activity
28 against an employee of an educational entity to law enforcement
29 authorities or school district officials or personnel commits
30 a misdemeanor punishable only by a fine of up to \$2,000. The
31 bill provides that a public school student between the ages of
32 7 and 17 who knowingly makes a false accusation of criminal
33 activity against an employee of an educational entity to
34 law enforcement authorities or school district officials or
35 personnel may, at the discretion of the board of directors

1 of the school district, and in accordance with the federal
2 Individuals with Disabilities Education Act, be subject to
3 certain sanctions listed in the bill. These provisions do not
4 apply to accusations against members of the board of directors
5 of a school district. These provisions are in addition to and
6 do not limit any other civil or criminal liability imposed by
7 law on persons who make false statements alleging criminal
8 activity by others.

9 The bill provides that in any civil action or proceeding
10 against an educational entity or its employee for acts or
11 omissions within the course and scope of employment in which
12 the educational entity or its employee prevails, the court
13 shall award court costs and reasonable attorney fees to the
14 prevailing parties.

15 The bill provides that in any civil action or proceeding
16 against an educational entity or its employee for acts
17 or omissions within the course and scope of employment, a
18 plaintiff's attorney shall not enter into a contingency fee
19 contract that provides for the attorney to receive an aggregate
20 contingency fee in excess of 35 percent of any recovery,
21 exclusive of reasonable costs and expenses, and shall not
22 charge or accept a contingency fee in excess of that amount.

23 For purposes of the bill, an employee who acts with specific
24 intent to cause harm shall not be considered as acting within
25 the course and scope of employment.

26 The bill provides that the existence of any insurance policy
27 indemnifying an educational entity against liability for
28 damages does not constitute a waiver of any defense otherwise
29 available to the educational entity or its employees in the
30 defense of the claim, unless otherwise provided by law.

31 The bill shall not be construed to infringe on any right
32 provided under the federal Individuals with Disabilities
33 Education Act. The bill shall not be construed to conflict
34 with Code chapter 669 or 670, relating to tort liability of the
35 state and governmental subdivisions.